IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.R. No.83 of 1998
Date of Decision:4.12.2006

Commissioner of Income-tax, Patiala

.....Petitioner

Vs.

Swaraj Mazda Ltd., Chandigarh

.....Respondent

CORAM:- HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Dr. N.L.Sharda, Advocate for the revenue.

Shri Pankaj Jain, Advocate.

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ADARSH KUMAR GOEL, J.

The following question of law has been referred for opinion of this Court arising out of order passed by the Income-Tax Appellate Tribunal, Chandigarh Bench, Chandigarh in I.T.A. No.1474/91 dated 29.7.1997 in respect of assessment year 1986-87:-

> "Whether, on the facts and in the circumstances of the case, the ITAT was right in law in allowing expenditure incurred by way of rent of Guest House which was disallowed according to the specific provisions of section 37(4) read with section 37(5) of the Income-tax Act, 1961?"

The Tribunal has followed its earlier judgment in the case of **Commissioner of Income Tax, Patiala Vs. Punjab Tractors Limited, Mohali**, ITR No.570 of 1995 decided on 15.9.2006. The issue was gone into by this Court in **Punjab Tractors' case** (supra) and decided against the assessee following the judgmnet of Hon'ble the Supreme Court in **Britannia Industries Limited Vs. Commissioner of Income Tax and another,** (2005) 278 ITR 546.

In view of the above, the question referred to above is answered against the revenue and in favour of the assessee.

(ADARSH KUMAR GOEL)
JUDGE

December 4, 2006 **(RAJESH BINDAL)**
renu **JUDGE**